



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Bruce Parker
County Attorney
Gray County
Pampa, Texas

Dear Sir:

Opinion No. 0-6486

Re: Is the property owned by the
City of McLean subject to
taxation by the McLean Inde-
pendent School District, under
the facts submitted?

Your request for an opinion of this Department
upon the captioned subject reads in part:

"The City of McLean is incorporated under the
general laws of the Legislature.

"In 1932, the City of McLean purchased a two
story building situated within its corporate limits
and designated as the City Hall. The City owns and
operates the water system for the uses and benefits
of its inhabitants. In 1937 the City purchases a
gas system which had theretofore been operated by a
private corporation.

"On the first floor of the City Hall is situated
the various offices of the City, including the Tax
Assessor and Collector, the City Secretary and the water
and gas Superintendent, in which offices are paid all
gas and water bills, including the taxes. There is
also situated on the first floor of this building, a
public library. A portion of the first floor of this
building is rented to the McLean Independent School
District, which is used by the School District officials,
including office of the Tax Assessor and Collector.
Rent for this office is paid by the School District
to the City of McLean. The second floor of the City
Hall is rented to the A. F. & A. M. Lodge and rent
for this space is paid by this Lodge to the City of
McLean.

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"It is contended by certain school officials of the McLean Independent School District, that due to the fact that the City of McLean rents a portion of the City Hall, it is not being used for purely public purposes and consequently this property is subject to taxation by the McLean Independent School District."

Whether or not the City Hall under consideration is subject to taxation because portions thereof are rented involves the following constitutional and statutory provisions:

Constitution, Art. 8, Sec. 1:

"All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law."

Constitution, Art. 11, Sec. 9:

"The property of counties, cities and towns, owned and held only for public purposes, . . . and all other property devoted exclusively to the use and benefit of the public shall be exempt from . . . taxation, . . ."

Constitution, Art. 8, Sec. 2:

". . . the legislature may, by general laws, exempt from taxation public property used for public purposes; . . ."

Art. 7150, R. C. S.:

"The following property shall be exempt from taxation, to wit: . . ."

"All property, whether real or personal, belonging exclusively to this State, or any political subdivision thereof."

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The court in the case of City of Abilene v. State, 113 S. W. (2d) 631 (writ of error dismissed) after discussing the proper construction to be given the above constitutional and statutory provisions in order to have harmony among them, ruled as follows:

"These considerations lead us to the conclusion that as to the power of the Legislature, to exempt public property from taxation, all such property should be regarded as "used for public purposes" when it is owned and held for public purposes, but not owned or held exclusively for such purposes; and there has been no abandonment of such purposes."

The court in this case has stated that property is "used for public purposes" when it is owned and held as such and there has been no abandonment of such purposes; that it need not be held exclusively for such purposes. As long as the property has not been abandoned for public purposes, the same may be rented for other purposes, as was done in the case of City of Abilene v. State, supra. This principle was fully recognized in the case of City of Beaumont v. State, 161 S.W. (2d) 344.

Therefore, it matters not that part of the City Hall of McLean is rented to a lodge, or an independent school district; this does not change its status of being used and held for public purposes.

We trust the foregoing answers your question.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Robert O. Koch

Robert O. Koch
Assistant

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APPROVED MAY 8 1945

